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9
10 **BEFORE THE**
MEDICAL BOARD OF CALIFORNIA
11 **DEPARTMENT OF CONSUMER AFFAIRS**
STATE OF CALIFORNIA
12

13 In the Matter of the First Amended Accusation
14 Against:

Case No. 800-2018-044707

15 **Eric Scott Bianchini, M.D.**
16 **1232 Myrtle Avenue**
San Diego, CA 92103

FIRST AMENDED ACCUSATION

17 **Physician's and Surgeon's Certificate**
18 **No. G 70838,**

Respondent.

19
20 Complainant alleges:

21 **PARTIES**

22 1. William Prasifka (Complainant) brings this First Amended Accusation solely in his
23 official capacity as the Executive Director of the Medical Board of California, Department of
24 Consumer Affairs (Board).

25 2. On or about March 4, 1991, the Medical Board issued Physician's and Surgeon's
26 Certificate No. G 70838 to Eric Scott Bianchini, M.D. (Respondent). The Physician's and
27 Surgeon's Certificate was in full force and effect at all times relevant to the charges brought
28 herein and will expire on January 31, 2023, unless renewed.

JURISDICTION

3. This First Amended Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2220 of the Code states:

Except as otherwise provided by law, the board may take action against all persons guilty of violating this chapter. . .

5. Section 2227 of the Code states:

(a) A licensee whose matter has been heard by an administrative law judge of the Medical Quality Hearing Panel as designated in Section 11371 of the Government Code, or whose default has been entered, and who is found guilty, or who has entered into a stipulation for disciplinary action with the board, may, in accordance with the provisions of this chapter:

(1) Have his or her license revoked upon order of the board.

(2) Have his or her right to practice suspended for a period not to exceed one year upon order of the board.

(3) Be placed on probation and be required to pay the costs of probation monitoring upon order of the board.

(4) Be publicly reprimanded by the board. The public reprimand may include a requirement that the licensee complete relevant educational courses approved by the board.

(5) Have any other action taken in relation to discipline as part of an order of probation, as the board or an administrative law judge may deem proper.

...

6. Section 2234 of the Code states:

The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

...

(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

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1 (1) An initial negligent diagnosis followed by an act or omission medically
2 appropriate for that negligent diagnosis of the patient shall constitute a single
negligent act.

3 (2) When the standard of care requires a change in the diagnosis, act, or
4 omission that constitutes the negligent act described in paragraph (1), including, but
5 not limited to, a reevaluation of the diagnosis or a change in treatment, and the
licensee's conduct departs from the applicable standard of care, each departure
constitutes a separate and distinct breach of the standard of care.

6 ...

7 COST RECOVERY

8 7. Section 125.3 of the Code provides, in pertinent part, that the Board may request the
9 administrative law judge to direct a licensee found to have committed a violation or violations of
10 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and
11 enforcement of the case, with failure of the licensee to comply subjecting the license to not being
12 renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be
13 included in a stipulated settlement.

14 8. Section 125.3 of the Code states:

15 (a) Except as otherwise provided by law, in any order issued in resolution of a
16 disciplinary proceeding before any board within the department or before the
Osteopathic Medical Board, upon request of the entity bringing the proceeding, the
17 administrative law judge may direct a licensee found to have committed a violation or
violations of the licensing act to pay a sum not to exceed the reasonable costs of the
investigation and enforcement of the case.

18 (b) In the case of a disciplined licensee that is a corporation or a partnership, the
19 order may be made against the licensed corporate entity or licensed partnership.

20 (c) A certified copy of the actual costs, or a good faith estimate of costs where
actual costs are not available, signed by the entity bringing the proceeding or its
21 designated representative shall be prima facie evidence of reasonable costs of
investigation and prosecution of the case. The costs shall include the amount of
22 investigative and enforcement costs up to the date of the hearing, including, but not
limited to, charges imposed by the Attorney General.

23 (d) The administrative law judge shall make a proposed finding of the amount
24 of reasonable costs of investigation and prosecution of the case when requested
pursuant to subdivision (a). The finding of the administrative law judge with regard
25 to costs shall not be reviewable by the board to increase the cost award. The board
may reduce or eliminate the cost award, or remand to the administrative law judge if
26 the proposed decision fails to make a finding on costs requested pursuant to
subdivision (a).

27 (e) If an order for recovery of costs is made and timely payment is not made as
28 directed in the board's decision, the board may enforce the order for repayment in any

1 appropriate court. This right of enforcement shall be in addition to any other rights
2 the board may have as to any licensee to pay costs.

3 (f) In any action for recovery of costs, proof of the board's decision shall be
4 conclusive proof of the validity of the order of payment and the terms for payment.

5 (g) (1) Except as provided in paragraph (2), the board shall not renew or
6 reinstate the license of any licensee who has failed to pay all of the costs ordered
7 under this section.

8 (2) Notwithstanding paragraph (1), the board may, in its discretion,
9 conditionally renew or reinstate for a maximum of one year the license of any
10 licensee who demonstrates financial hardship and who enters into a formal agreement
11 with the board to reimburse the board within that one-year period for the unpaid
12 costs.

13 (h) All costs recovered under this section shall be considered a reimbursement
14 for costs incurred and shall be deposited in the fund of the board recovering the costs
15 to be available upon appropriation by the Legislature.

16 (i) Nothing in this section shall preclude a board from including the recovery of
17 the costs of investigation and enforcement of a case in any stipulated settlement.

18 (j) This section does not apply to any board if a specific statutory provision in
19 that board's licensing act provides for recovery of costs in an administrative
20 disciplinary proceeding.

21 **FIRST CAUSE FOR DISCIPLINE**

22 **(Repeated Negligent Acts)**

23 9. Respondent has subjected his Physician's and Surgeon's Certificate No. G 70838 to
24 disciplinary action under sections 2227 and 2234, as defined by section 2234, subdivision (c), of
25 the Code, in that he committed repeated negligent acts in his care and treatment of Patient A, as
26 more particularly alleged hereinafter:¹

27 10. On or about March 9, 2015, Patient A was admitted to Eisenhower Medical Center in
28 Rancho Mirage, California for lumbar spine surgery. Respondent was the anesthesiologist.
Patient A was then 75 years old with symptomatic lumbar degenerative scoliosis and stenosis,
who had failed conservative management. Patient A's medical history included chronic
obstructive pulmonary disease (COPD), HIV, ataxia, esophageal reflux disease, obstructive sleep
apnea with CPAP, right bundle branch block, and peripheral neuropathy. Patient A was also
noted to have left-sided foot drop and bilateral severe neuropathy. The planned procedure was a
multilevel (L2-S2) lumbar decompression and fusion.

¹ References to "Patient A" herein are used to protect patient privacy.

1 11. On or about March 9, 2015, Respondent completed a pre-anesthesia history and
2 physical for Patient A. Respondent's review of systems included a history of transient ischemic
3 attack (TIA) in 2000 and 2010, with unsteady and slurred speech, a pre-operative EKG on March
4 2, 2015, which showed sinus bradycardia with a right bundle branch block, and a stress test on
5 March 2, 2015, which was negative for ischemia or infarction with an ejection fraction of 54%.
6 Patient A was noted to be 6'1" tall and 230 pounds, with a BMI of 30. His pre-operative vital
7 signs included a blood pressure of 155/95 as of 05:30. Respondent assessed Patient A as having
8 an American Society of Anesthesiology (ASA) score of 3, which represents a patient with severe
9 systemic disease.

10 12. The surgery lasted approximately 10 hours. Anesthesia was started at 07:27 and
11 ended at 19:00, for a total anesthesia time of 11 hours and 33 minutes. Patient A lost
12 approximately 3,500 ml of blood during the surgery. In response to the blood loss, Patient A was
13 transfused 1,100 ml of cell saver blood through use of the OrthoPAT®, a blood salvage device.
14 However, no fresh frozen plasma (FFP) or platelets were transfused.

15 13. At approximately 17:00, Patient A's laboratory results showed a low hematocrit (Hct)
16 level of 26.3%, a low hemoglobin (Hgb) level of 8.5 g/dL, and a low platelet count of 99 K/uL.
17 In addition, Patient A had a PT INR (Pro Thrombin International Normalized ratio) of 1.3. No
18 FFP or platelets were administered in response to these indications that Patient A was behind in
19 red blood cells (RBCs), platelets, and clotting factors.

20 14. At the beginning of the surgery, Respondent placed a radial arterial line in order to
21 monitor Patient A's blood pressure due to the surgeon's request for induced hypotension. Blood
22 pressure readings from the arterial line were recorded until approximately 15:25, at which point
23 the readings ceased. From that point until the end of the surgery, blood pressure readings were
24 obtained from the non-invasive blood pressure cuff only. Nevertheless, induced hypotension
25 continued to be used for the remainder of the surgery.

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1 15. Patient A's total urine output for the duration of the procedure was 500 ml. Of this
2 amount, 350 ml of the total urine output was documented at approximately 07:45, closer to the
3 start of the surgery. The remaining 150 mL of urine output occurred at 09:30 (50 ml), 10:30 (40
4 ml), 11:45 (30 ml), 13:00 (10 ml), and 17:30 (20 ml).

5 16. Patient A's postoperative course included respiratory failure with prolonged
6 ventilation and tracheostomy placement, renal failure requiring temporary renal dialysis, and loss
7 of vision in the left eye. Patient A remained hospitalized until on or about April 7, 2015, when he
8 was discharged to a long-term care facility.

9 17. Respondent committed repeated negligent acts in his care and treatment of Patient A,
10 which included, but were not limited to the following:

11 (i) Respondent failed to adequately replace all blood product loss during the
12 surgery.

13 (ii) Respondent failed to administer FFP and platelets in response to the low
14 intra-operative laboratory values obtained at 17:00.

15 (iii) Respondent continued to use induced hypotension despite the lack of
16 continuous blood pressure monitoring data available from a functioning arterial line.

17 (iv) Respondent failed to adequately address the risk of postoperative vision
18 loss (POVL), including by (1) failing to ensure that adequate clotting factors were
19 present and (2) avoiding intra-operative hypotension given the presence of other risk
20 factors for POVL.

21 (v) Respondent failed to maintain adequate blood pressure and volume status
22 to ensure adequate kidney perfusion.

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1 PRAYER

2 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
3 and that following the hearing, the Medical Board of California issue a decision:

4 1. Revoking or suspending Physician's and Surgeon's Certificate No. G 70838, issued
5 to Respondent Eric Scott Bianchini, M.D.;

6 2. Revoking, suspending or denying approval of Respondent Eric Scott Bianchini,
7 M.D.'s authority to supervise physician assistants, pursuant to section 3527 of the Code, and
8 advanced practice nurses;

9 3. Ordering Respondent Eric Scott Bianchini, M.D., to pay the Board the costs of the
10 investigation and enforcement of this case, and if placed on probation, the costs of probation
11 monitoring; and

12 4. Taking such other and further action as deemed necessary and proper.

13
14 DATED: MAR 03 2022



WILLIAM PRASIFKA
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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